

UNAVAILABLE FUNDS—TREASURY U. S.

LETTER

FROM THE

SECRETARY OF THE TREASURY,

TRANSMITTING

*A report on the Unavailable Funds in the Treasury, &c. &c.*

JANUARY 24, 1833.

Referred to the Committee of Ways and Means.

TREASURY DEPARTMENT,

January 23, 1833.

SIR: In compliance with the resolution of the House of Representatives, dated the 9th instant, directing the Secretary of the Treasury "to make to this House a report upon the condition of the unavailable funds in the Treasury, specifying therein the amount due from each bank; and when and how said debts were severally contracted; and the measures which have been taken, and are now in progress, to compel payment, together with his opinion of the probable value of each of those debts;" I have the honor to transmit a letter received from the Solicitor of the Treasury, and the document which accompanied it; and also a copy of the statement marked A, which accompanied my report made to the Senate, on the 4th day of December last, in compliance with the resolution of that body, dated the 14th of July, 1832.

These papers, together with those referred to in the statement marked A, contain all the information it is in the power of the department to furnish in compliance with the resolution.

I have the honor to remain,

Very respectfully, sir,

Your obedient servant,

LOUIS McLANE,  
*Secretary of the Treasury.*

The Hon. the SPEAKER  
*of the House of Representatives.*

## OFFICE OF THE SOLICITOR OF THE TREASURY,

January 19, 1833.

SIR: I have had the honor to receive your letter of the 10th instant, with the resolution of the House of Representatives, directing the Secretary of the Treasury to make a report "upon the condition of the unavailable funds in the Treasury, specifying therein particularly the amount due from each bank, and when and how said debts were severally contracted; and the measures which have been taken, and are now in progress, to compel payment, together with his opinion of the probable value of each of those debts."

In compliance with your request that I would state "what measures have been taken for the recovery of the debts referred to in the above resolution since the report of the agent of the Treasury, dated January 21, 1830," I have the honor to send enclosed, herewith, a register of the suits instituted against sundry banks by the Comptroller of the Treasury, the late agent of the Treasury, and this office, in which the information required will be found. In order to present a connected view of the whole course of legal proceedings in those suits, I have thought it best to copy in black ink in this register, the remarks of the late agent of the Treasury in his report referred to in your letter, and to add thereto, in red ink,\* such statements as were rendered necessary by your request.

I remain, with great respect, sir,

Your most obedient servant,

V. MAXCY,

*Solicitor of the Treasury.*

To the Hon. Louis McLANE,  
*Secretary of the Treasury.*

\* Distinguished by quotations in the printed document.

## A.

*STATEMENT referred to in the Report of the Secretary of the Treasury, dated 4th December, 1832, made in compliance with a resolution of the Senate of the 14th July, 1832.*

BANKS. INDEBTED.	AMOUNT.
Elkton Bank, Maryland - - - -	9,865 25
Alexandria Society, Granville - - - -	2,463
Western Bank of Virginia, Parkersburg - - - -	198
German Bank of Wooster - - - -	39,552 97
Farmers and Mechanics' Bank, Greencastle - - - -	595
Virginia Saline Bank - - - -	10,121
Merchants' Bank, Alexandria - - - -	3,217
Juniata Bank, Pennsylvania - - - -	3,200
Huntingdon Bank, Pennsylvania - - - -	2,380
Lebanon Miama Banking Company - - - -	9,575
Bank of Washington, Pennsylvania - - - -	7,508 34
Cumberland Bank of Alleghany - - - -	1,176 61
Farmers and Mechanics' Bank, Pittsburgh - - - -	1,311
Urbanna Banking Company - - - -	2,839
Bedford Bank, Pennsylvania - - - -	4,059 57
Farmers' Bank of Canton - - - -	6,598 06
Union Bank of Pennsylvania - - - -	9,758
Kentucky Insurance Company - - - -	797
Marietta and Susquehanna Trading Company - - - -	1,360
Somerset Bank - - - -	69,077 87
Farmers and Mechanics' Bank, Chillicothe - - - -	23,905
Centre Bank of Pennsylvania - - - -	8,938
Bank of Cincinnati - - - -	3,846
Miami Exporting Company - - - -	8,791
Farmers and Mechanics' Bank, Cincinnati - - - -	39,966 01
Bank of Vincennes - - - -	168,453 27
Bank of Edwardsville - - - -	46,800
Planters' Bank of Huntsville - - - -	11,223 53
Franklin Bank, Alexandria - - - -	48,000
Bank of Missouri - - - -	159,163 87
Bank of Illinois, at Shawneetown - - - -	28,367 85
“ Steubenville, Ohio - - - -	170,000
Farmers and Mechanics' Bank, Indiana - - - -	43,592 90
Bank of Tombeckbee - - - -	138,754 69
“ Nashville - - - -	6,267 29
“ Columbia - - - -	278,361 87
Bath Bank of Maine - - - -	20,623 05
	1,390,707 00

For more particular information concerning these debts, the Secretary of the Treasury begs leave to refer to the report from the Treasury Department, dated the 8th of March, 1830, made in compliance with a resolution of the Senate of the 22d January, 1829.

Since the date of that report, payments have been made on account to the amount of \$120,000, which are not here credited, but will be taken into view when the accounts are about to be closed, and it can be ascertained what portion of it is to be applied to interest.

*REGISTER of Suits directed to be instituted against sundry Banks, by the Comptroller and Agent of the Treasury.*

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Institut <sup>n</sup> of suit.	Attorney.	Against whom.	Situation.	Amount due.	Amount received.	Remarks.
1820. Aug. 16	John C. Wright	Granville Agricultural Society.	Ohio	\$2,463	-	Judgment for \$2,684 77. No goods, no lands. Marshal's return June, 1832. "In 1829, the District Attorney, in a general report, states that the bank is insolvent. "On the 1st November, 1830, the District Attorney was directed, by circular, to make particular examination into the state of all outstanding judgments, and to make a special report to this office, of every case in which every legal means of enforcing payment had not been fully exhausted, and in which a recovery of any part was not entirely hopeless. Since which time, no information has been received authorizing the expectation that any part of this debt will be received." Sued in State court, and in judgment. John C. Wright, late District Attorney, accountable for this sum. See his letter referred to the Secretary of the Treasury.
16	The same	Owl Creek Bank, of Mount Vernon	Do	64	-	"76 "Deposited by J. C. Wright, on account of this debt, January 20, 1831, and account closed."
19	The same	German Bank, of Wooster	Do	35,107	304 22 4,662 69	Judgments to the amount of \$24,037 81, were assigned by this institution to the United States, September 1st, 1831, payable in 7 years. So far as relates to the bank, nothing more is expected, Marshal's return January, 1827; and of the amount assigned, the sum of \$12,507 66, it is presumed will be lost, the parties being returned by the Marshal as insolvent. Deposited September 10, 1824, on account of the bank. Deposited at sundry times on account of assignments. "Judgment has been obtained against the bank for \$14,756 66 with interest from 11th September, 1831. Marshal's return, January 1, 1837. In May, 1832, the District Attorney and clerk were written to for information in this case, in reply to which, they report "that upwards of \$3,000 have been collected by Jos. S. Benham, late District Attorney, on account

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19	The same	Bank of New Salem	Do	1,835	559 15
					200
19	The same.	Cleveland Commercial Bank of Lake Erie	Do	10,900	-
					1,637 32

of the judgments assigned, which has not been accounted for; and that upwards of \$1,000, on the same account, has been paid to Henry D. Evans and William Key Bond, late clerks of the court of Ohio, which has not been accounted for. The District Attorney has been instructed to procure and forward to this office, as soon as practicable, the original receipts given by those officers of the court, to enable the accounting officers of the Treasury to raise accounts against them for suit, unless they should, without delay, deposite the amount received by them.

"The District Attorney advises, by letter dated June 11, 1832, that there is no prospect of collecting any thing further upon the judgment against the bank; that every possible effort, with a similar view, has been made by other creditors in the State courts, some years since, without effect. He also states that several of the persons against whom judgments were assigned to the United States, are hopelessly insolvent, and that very little, if any thing further, is to be expected from them."

Deposited October 15, 1823, by J. C. Wright, late District Attorney.

Collected by District Attorney, and retained by him for his services. See his letter referred to the Secretary of the Treasury, dated 14th October, 1823.

"The District Attorney, in his general return for 1829, says the bank is insolvent."

Judgment for \$12,162 50, with interest from 11th September, 1821, till paid. Levied on real estate. Property sold for \$1,480.

Deposited at sundry times, by District Attorney, being the proceeds of the property sold.

"In answer to a circular, dated September 10, 1830, the collector of customs, at Cleveland, Ohio, reports, in November, 1830, that this "bank has mortgages and judgment liens on wild lands, as well as on some improved farms, to the amount of 7 or \$8,000. This is all the property that the bank owns, or ever will own, and its debt to the United States is its only debt undischarged. This state of affairs has continued for some years, and is likely to continue to the end of time, unless something is done."



## STATEMENT—Continued.

Institution of suit.	Attorney.	Against whom.	Situation.	Amount due.	Amount received.	Remarks.
1820.						<p>"On the 20th January, 1831, the District Attorney was instructed to apply to Mr. Starkweather, collector at Cleveland, for full information on the subject, and to take the necessary steps to make the property of the bank available towards the discharge of this judgment. The steps taken in pursuance of these instructions, resulted in the collection of \$893 83 by the Marshal. Afterwards a compromise, after a long correspondence, was effected, under the authority of an act of Congress, by which the judgment was assigned to George Bancroft, who paid into the Treasury \$9,010 50, being the amount of the judgment remaining unpaid, exclusive of interest. The account is closed."</p> <p>The decision of the Supreme Court adverse to a recovery in this case. See the case next below.</p> <p>An appeal granted in this case to the Supreme Court of the United States, at the fall session of the district court for 1825. Decided against the United States at January session, 1828, of Supreme Court.</p> <p>Bank insolvent, per District Attorney's return 1821.</p> <p>"1829 the District Attorney made a similar return."</p> <p>Closed.</p> <p>Judgment. Marshal's return November, 1822, "nulla bona."</p> <p>"District Attorney's return, 1829, 'nulla bona.'"</p> <p>Judgment June term, 1824, for \$53,442 86. Suit now in chancery now pending against the trustees of the bank, to whom were assigned all the property of, and debts to, the institution.</p> <p>"In answer to a circular from this office, dated July 27, 1830, calling for information, the District Attorney reports that the object of the suit in chancery is to obtain a disclosure, by the president, directors, and company, and trustees of the bank, of all their notes, mortgages, lands, goods, and chattels, and money, and claims a priority in the payment of the debt</p>
					\$893 83	
					9,010 50	
Aug. 19	Jacob Beeson	Parkersburg Bank	Western Va.	\$198	-	
31	The same	Saline B'k, Clarksburg	Do	10,200	-	
Sept. 14	Walter Jones	Merchants' Bank of Alexandria	Dis. Columbia	3,217	-	
14	Elias Glenn	B'k Somerset & Worc'r	Maryland	1,723	2,192 56	
Oct. 3	C. J. Ingersoll	Farmers' and Mechanics' Bank of Greencastle	Pennsylvania	595	-	
1823, March 24	Jephthah Hardin	Bank of Edwardsville	Illinois	141,238 90	-	

1826, Jan'y 26	Nathaniel Williams	Bank of Somerset	Maryland	69,079 62
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due the United States, the judgment against the bank being for money deposited by the United States in the Edwardsville Bank. The defendants have all answered. Their answers are excepted to, as not being full and sufficient, and the exceptions are referred to a master in chancery.

"It appears from the Marshal's return made in the year 1829, that an execution, issued on the judgment at law against the bank, and was levied on the banking house of said directors and company, and on sundry lots of land belonging to them; that the banking house was sold by him for \$500 cash, and that the lots of land were purchased by the agent of the United States for \$689 29; no more property being then found. The Marshal (Henry Conner) having failed to pay in to the Treasury the said sum of \$500, suit has been instituted against him for its recovery, with interest.

"At November term, 1832, the chancery suit was still pending."

On the 15th of July, 1820, an agreement was entered into between the Comptroller of the Treasury, on the part of the United States, and the president and directors of this institution, on the other part, in which the latter entered into bond, binding themselves to discharge the whole of the principal of this debt on or before the expiration of five years. The directors not having complied with this agreement, the District Attorney of Maryland was directed, on the 26th of January, 1826, to institute suit against them on the bond, and this is now pending.

Deposited by Marshal, May 18, 1829, on account of the sale of the banking house.

Deposited at sundry times, by the District Attorney, on account of garnishees

"In reply to a circular of this office, dated 27th of July, 1830, the District Attorney states, in his reports of suits then pending, that the judges of the circuit court being divided in opinion on this case, it was carried to the Supreme Court. In his return for November term, 1831, he states it has been sent back to the circuit court, and referred to an accountant for a full statement of the accounts, and continued to enable him to finish his statement.

## STATEMENT--Continued.

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Institution of suit.	Attorney.	Against whom.	Situation.	Amount due.	Amount received.	Remarks.
1826, Jan'y 12	Nath'l Williams	Elkton Bank	Maryland	\$19,865 25	10,000 855	<p>"At November term, 1832, it was still pending, undecided.</p> <p>"Suits are also pending against sundry persons as garnishees of the bank. What amount will eventually be realized from this suit is uncertain.</p> <p>Have been deposited by the Marshal and District Attorney, at sundry times, since January 31st, 1830, on account of collections from garnishees."</p> <p>Deposited October 9th, 1824, by District Attorney, on account of a mortgage of Philip Thomas.</p> <p>Deposited October 14, 1825, by District Attorney, on account of interest of Philip Thomas. It having been ascertained that a previous mortgage to that of the United States had been given by Mr. Thomas to others, for a sum equal to the supposed value of the property, suit has been ordered against the Bank of Elkton, for the balance of this debt, and this is still pending.</p> <p>"Judgment rendered against the bank in the district court, December term, 1829, for \$21,200.</p> <p>"In his report of suits pending on the 4th of July, 1830, the District Attorney states that this case was carried to the Supreme Court.</p> <p>"At November term, 1832, it was still pending.</p> <p>Deposites by the District Attorney, December 6, 1832, who states, in his letter, that about \$2,000 more will be collected in this case.</p> <p>"Suits are also pending against sundry persons as garnishees of the bank."</p> <p>Deposited at sundry times, by District Attorney</p> <p>Deposited January 7, 1830, by Henry Hitchcock, District Attorney.</p> <p>Do. do</p>
1827, July 21	Henry Hitchcock	Tombeckbee Bank	Alabama	189,216 65	28,606 54 5,256 47 16,598 75	

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In December, 1827, the District Attorney, by direction of the late Secretary of the Treasury, was instructed to discontinue judicial proceedings against this institution, and to grant one, two, three, and four years' indulgence to sundry individuals the payment of their notes transferred by said institution to the United States, upon the parties making the debt secure.

"Henry Hitchcock, then District Attorney, was appointed sole agent of the United States to carry into effect this arrangement, and all judgments, bonds, notes, &c., were placed in his hands to be collected and applied to the payment of this debt. Mr. Hitchcock has been urged, from time to time, to use all diligence in bringing this business to a close.

"49,526 14 Have been deposited at sundry times by him since January 21st, 1830, on account of collections. In answer to a letter written him on the 15th of May, 1832, calling for a full statement of his proceedings, he reports, under date of July 24, 1832, a list of debts due the bank, amounting to \$44,763 97 stated to be good, and will be collected in the course of the next winter; also a list of judgments now in force, amounting to \$12,869 67, which will be collected in December, 1832; also, a list of notes in suit, to many of which a defence was set up, amounting to \$23,595 84, but in most of which he thinks judgments will eventually be obtained; also, a list of debts amounting to about \$40,000, due from persons, most of whom, he thinks, will turn out insolvent. These are the only sources from which any thing is expected in this case.

"This suit is brought for the recovery of the special deposit of notes of the Tombeckbee Bank in the office of the Bank of the United States at Mobile. In this case, the United States make a claim for interest on the amount of the deposit, which is resisted by the bank. They state their willingness and ability to pay off the principal, but the principle on which interest is claimed, is deemed too important by the United States to be surrendered without a decision from the highest judicial tribunal."

## STATEMENT—Continued.

Institu'on of suit.	Attorney.	Against whom.	Situation.	Amount due.	Amount received.	Remarks.
1827, Oct. 20	Harry I. Thornton	Planters' and Merchants' Bank Balance reduced by sub- sequent settlement in December, 1827, to	Huntsville	\$45,637 11	-	On the 20th December, 1827, the District Attorney was authorized to accept the bond or bonds of Leroy Pope, late president of this institution, for amount of debt and interest from the time of the failure of the bank, payable in four equal instalments, and on receiving the bond or bonds, to suspend judicial proceedings against the bank, &c.
			-	21,223 59		"Four bonds were executed in pursuance of the above arrangement, and delivered to the District Attorney, and the suit dismissed:
					"14,694 52	Have been collected and deposited by the District Attorney, being in full of the principal and interest of the first two of said bonds, and on account of interest on the two latter to April, 1833, to which period indulgence has been granted.
"1830, Oct. 1	Jas. Collinsworth	Bank of Nashville	Tennessee	6,370 08	"	"Judgment rendered November term, 1830, for \$7,113 18 by the district court. Appeal taken to the circuit court, and judgment rendered September 28, 1831, for \$7,270 05. The Marshal's returns in March, 1832, 'no property found,' but says the debt will be paid as soon as the affairs of the bank are closed. The District Attorney also reports the debt good."
"1831, April 13	Ether Shepley	Bath Bank, of Maine	Maine	35,769 65	"15,146 60	Deposited by District Attorney to the credit of the Treasurer of the United States. The bank makes a claim against the United States for an amount equal to the balance due in this case; and proceedings have been suspended until the expiration of the present session of Congress, to enable them to petition that body for relief. The debt is considered safe."
"June 17	Noah H. Swayne	Farmers and Mechanics' Bank of Cincinnati	Ohio	-	-	"It appears from a report of the Secretary of the Treasury to Congress, made in January, 1830, that the amount due from this bank is \$36,966 01. In this case, the District Attorney was instructed to institute suits in the State court at Cincinnati against the stockholders of the bank."

1830,  
Aug.

1 The same

Bank of Steubenville

Ohio

170,000

"An arrangement was made with the Secretary of the Treasury, in the year 1825, for the liquidation of this debt, by which the bank was to confess a judgment for \$170,000, and to give its note for \$50,000, payable the 1st of January, 1827, with interest, and B. Wells & Co., debtors to the bank, to confess judgment for \$120,000, and to give their two notes for \$60,000 each, to the United States; one payable 1st January, 1830, the other payable the 31st of December, 1830, each bearing interest payable 1st January, 1828, and annually thereafter.

"The parties having failed to comply with this arrangement, executions were issued on the judgments against the bank, and against Wells & Co., which were levied by the Marshal on real estate.

"In July, 1831, the Marshal effected sales of real estate belonging to the bank to the amount of \$6,223 32, and in December, 1831, returned no goods, no chattels, lands, or tenements, so far as relates to the bank.

"In July, 1831, the Marshal also effected sales of property belonging to Wells & Dickerson, to the amount of \$27,030 11.

"On the 9th of December, 1830, the District Attorney filed bills in chancery in the circuit court of the United States, against Wells and Dickerson, and others, to subject their factory and machinery, &c., to the payment of this debt. This property had been assigned by the defendants to D. L. Collier, for the benefit of other creditors. The District Attorney, in his return for July term, 1832, says, "the ground mainly relied upon by the bill, was, that the assignments covered *all* the property of the assignors, except that previously bound to the United States by the lien of their judgment, and that, consequently, they were entitled to "priority" of payment. The answers and testimony showed that, at the time of the execution of the assignments, the defendants, Wells and Dickinson, had a large amount of property other than that contained in the assignments, and not effected by the lien of the judgment of the United States." The case was heard at July term, 1832,

# STATEMENT—Continued.

Institu'on of suit.	Attorney.	Against whom.	Situation.	Amount due.	Amount received.	Remarks.
"1831, "Sept. 3	Samuel Judah	Farmers and Mechanics' Bank	Madison, Ind.	-	-	<p>of the circuit court, and dismissed. He also instituted suits against sundry persons as garnishees of the bank. In his report for July term, 1831, the District Attorney states, that, "after the processes were served, it was ascertained that the bank had assigned all its debts to their trustees for the benefit of its creditors." The right of the United States to a recovery, was resisted on the grounds, 1st, that the suits were instituted after judgment had been taken against the corporation; 2d, that there were third persons in interest who could not be made parties to the proceedings; 3d, that suits were pending in the State courts against them; and 4th, that the assignment was valid, and could not be over-reached by the rights of the Government. At this term, the case was fully heard and argued, and the court overruled the three first objections, but decided that the assignment was valid.</p> <p>"30,056 44 Have been collected and deposited at various times, by the District Attorney and Marshal, on account of this debt, since the institution of these suits.</p> <p>"The District Attorney has made no report, recently, of the prospect of further collections in this case, and very little more is expected."</p> <p>"The District Attorney was authorized to exercise a sound discretion as to the measures to be pursued for the recovery of this debt. An assignment was made by the bank, of all its debts, to the United States, as collateral security, and Milton Stapp, its cashier, was appointed agent to collect the same, and pay them over to the United States. A proposition to compromise the case was submitted by the bank, and, under the authority of an act of Congress passed July 9, 1832, was at length effected, by which the principal of the debt, without interest, is secured, and will be</p>

*Sept. 3	The same	Bank of Vincennes, (State Bank of Indiana)	Vincennes	-	-	<p>paid as soon as a transcript of the account can be prepared, and the exact balance due ascertained at the Treasury Department. The amount due is supposed to be \$31,683 90.</p> <p>"In the year 1831, an arrangement was made by the honorable J. B. Thomas, on the part of the United States, with this bank, for the security of this debt, by which sundry lots and tracts of land and other securities were transferred to trustees to be sold for its payment.</p> <p>"In March, 1830, the Secretary of the Treasury was advised, by the District Attorney, that the debt would be nearly all lost. On the 3d of September, 1830, he was instructed to institute suit against the bank, and to sell all the trust property.</p> <p>"In 1831, a tract of land was sold to William H. Neilson for \$6,000, payable in six annual instalments; and the remainder of the trust property was sold at public auction for \$2,650 40. The District Attorney advises me, by letter dated Washington city, January 14, 1833, that these two sums are all that is expected to be realized in this case, the bank being hopelessly insolvent."</p>
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